IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

THURSDAY, THE 2ND AUGUST 2007 / 11TH SRAVANA 1929

Crl.MC.No. 4008 of 2003()

CC.63/2001 of JUDL. MAGISTRATE OF FIRST CLASS-II(MOBILE), KOZHIKODE

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PETITIONER: ACCUSED

BIJOY JOY, S/O. PALLIKUNNATHU JOY,
MYLIPADAM DESOM, THRISSUR VILLAGE, THRISSUR TALUK,
THRISSUR DISTRICT.

BY ADV. SRI.P.VIJAYA BHANU
SMT.P.MAYA

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR, SRI AMJAD ALI

THIS CRIMINAL MISC. CASE HAVING BEEN FINALLY HEARD ON 02/08/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J.

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Crl.M.C.No.4008 of 2003

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Dated this the 2nd day of August, 2007

O R D E R

The petitioner is the third accused in C.C.No.63/2001 in the file of the Judicial Magistrate of the First Class Court-II, Kozhikode, with respect to the offence under Section 55(a) of the Abkari Act on the allegation that accused was found transporting illicit liquor in a car bearing registration No.KLU 5868 on 21/09/1996.

2. It is submitted by the counsel for the petitioner that the petitioner/the third accused has no connection with the incident and that he was abroad. The only allegation is that he owned the car. It is also submitted that accused Nos.1 and 2 were tried and acquitted by Annexure-E judgment wherein the court has held that there was delay in producing the sample before the court, and that there was delay in submitting the requisition for forwarding the sample for chemical analysis.

3. I find that the fact that the rest of the accused have been acquitted is no reason to quash the proceedings. The evidence that would be adduced when the present petitioner would be tried cannot be forecast right now. I find that the reasons mentioned are hardly sufficient to quash the proceedings. {See **Moosa vs.Sub Inspector of Police [2006 (1) KLT 552]**}. In the circumstances, the Crl.M.C is liable to be dismissed. But considering the plea of the petitioner, the petitioner is directed to surrender before the court below at the earliest and apply for discharge. It is not necessary to order pre-trial detention of the petitioner. The Crl.M.C is disposed of as above.

Sd/-

K.R.UDAYABHANU,
Judge

ms

K.R.UDAYABHANU, J.

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Crl.M.C.No.4008 of 2003

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O R D E R

2nd August, 2007